

March 2, 2009

MEMORANDUM FOR: Grants Council
Department of Commerce

FROM: Helen Hurcombe
Director, Office of Acquisition Management

SUBJECT: American Recovery and Reinvestment Act of 2009,
Grants-Associated Deliverables

The American Recovery and Reinvestment Act of 2009 (ARRA) includes requirements associated with the award and administration of grants by Department of Commerce bureaus and offices. This memorandum provides the first installment of guidance to Commerce officials to ensure uniform implementation within the Department. Please bring this memorandum to the attention of any personnel within your organization who will be involved in these matters.

Section A – Reporting Requirements

To ensure that the Department is compliant with ARRA reporting requirements, information on the following topics is required to be reported to the Office of Acquisition Management (OAM) by the date(s) indicated.

1. Catalog of Federal Domestic Assistance (CFDA)

Programs are required to request an expedited ARRA CFDA number for new ARRA programs or existing programs for which the ARRA provides for compliance requirements that are significantly different for the ARRA funding and identification of existing CFDA program descriptions that will be modified during the next CFDA update cycle to reflect ARRA authorities, financial information, etc..

Reporting Requirement – Provide a weekly report containing the following information:

- Programs for which new ARRA CFDA Numbers are requested
- Current CFDA program descriptions that will be modified to incorporate ARRA authorities and other requirements
- Status of request

Report Due Date – Weekly on Tuesdays, beginning March 10, 2009.

2. Grant.gov Synopses

Programs are required to post grant synopses to Grants.gov with a link to the full announcement on the DOC Recovery Act website by March 9, 2009.

Reporting Requirement – Report all synopses posted to Grants.gov and full announcements posted on the DOC Recovery Act website containing the following information:

- date posted to Grants.gov
- date announcement posted on DOC Recovery Act website.

Report Due Date – Weekly on Fridays, beginning March 6, 2009. When the updated report reflects the final posting, the report shall be certified as complete and final.

3. Federal Funding Opportunity Announcements

Programs are required to post Federal Funding Opportunity announcements to Grants.gov by March 19, 2009.

Reporting Requirement – Report all funding opportunity announcements posted reflecting the following information:

- date of posting
- program title
- funding opportunities to be posted and date when they will be posted
- closing date for acceptance of applications.

Report Due Date – Weekly on Fridays, beginning March 6, 2009.

When the updated report reflects the final posting, the report shall be certified as complete and final.

4. Award Transaction Data Feeds

Award Transaction Data Feeds are to be reported utilizing existing processes and systems. Separate guidance will be provided on reporting instructions and identification of systems to be used.

Reports are to be submitted monthly beginning May 5, 2009, reflecting all awards made in the preceding month. The reports should be submitted to the Director, Grants Management Division, OAM at gjohnso3@doc.gov on the first Tuesday of each month thereafter. Certification that data is complete and correct will be performed by the following officials at the respective bureaus:

EDA – Chief Information Officer

NIST – Chief, Grants and Agreements Management Division

NOAA – Director, Grants Management Division

5. Recipient Reports

Recipient report requirements apply only to non-Federal recipients of Federal funding and the subawards or contracts made by these recipients. Contractors under grants or subrecipients do not have to report.

While OMB is working on specific guidance, you should put all applicants on notice that reporting will be a requirement of the award. In doing so, it should help them structure their proposals so they can report directly on the areas the Recovery Act reports must have. This approach would help improve an applicant's proposal if they can clearly state that they will be complying with these requirements. Recipient reporting requirements are addressed in the next section.

Report Due Date – Quarterly by the 10th day following end of the quarter; beginning July 10, 2009

Section B – Federal Funding Opportunity Announcements and Federal Register Notices

Chapter 19 of the Grants Manual contains detailed information on the required content of Federal Register Notices and Federal Funding Opportunity Announcements. The clearance process is also delineated in this Chapter with the exception of the new requirement that all OMB will review all FRNs associated with the ARRA funds. Program offices should take into account in their planning, that OMB is providing a detailed review of FRNs using ARRA funds. The Office of the Assistance General Counsel for Legislation and Regulation will facilitate this review as part of their clearance process. Additionally, the Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements, published in the Federal Register on February 11, 2008 (73 FR 7696), lists the statutory and regulatory requirements to which all recipients are subject. This document is currently referenced in all FFOs. The ARRA includes additional provisions recipients must comply with, in addition to those identified in Grants Manual and the Pre-Award Notification Requirements. These provisions will require language to be added to both FFOs and FRNs in the following areas:

1. Buy America

The following language should be included in the “Administrative and National Policy Requirements” section of FFOs and “Additional Information” section of FRNs:

Unless waived by DOC, none of the funds appropriated or otherwise made available by ARRA, may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States. This provision shall be applied in a manner consistent with United States obligations under international agreements.

2. Davis Bacon

The following language should be included in the “Administrative and National Policy Requirements” section of FFOs and “Additional Information” section of FRNs:

Under Section 1606 of the ARRA, projects using ARRA funds require the payment of not less than the prevailing wages under the Davis-Bacon Act to "all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government."

3. False Claims Act Violations

The following language should be included in the "Administrative and National Policy Requirements" section of FFOs and "Additional Information" section of FRNs:

Each recipient or sub-recipient awarded funds under the ARRA shall promptly refer to an appropriate inspector general any credible evidence that a principal, employee, agent, contractor, sub-grantee, subcontractor, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving those funds.

4. Job Creation and Retention

The following language should be included in the "Reporting" section of FFOs and the "Additional Information" sections of FRNs:

Recipients must report the following:

- (1) The total amount of recovery funds received from [insert agency name]
- (2) The amount of recovery funds received that were obligated and expended to projects or activities. This reporting will also include unobligated Allotment balances to facilitate reconciliations.
- (3) A detailed list of all projects or activities for which recovery funds were obligated and expended, including--
 - (A) The name of the project or activity;
 - (B) A description of the project or activity;
 - (C) An evaluation of the completion status of the project or activity;
 - (D) An estimate of the number of jobs created and the number of jobs retained by the project or activity; and
 - (E) For infrastructure investments made by State and local governments, the purpose, total cost, and rationale of the agency for funding the infrastructure investment with funds made available under this Act, and name of the person to contact at the agency if there are concerns with the infrastructure investment.

(4) Detailed information on any subcontracts or subgrants awarded by the recipient to include the data elements required to comply with the Federal Funding Accountability and Transparency Act of 2006 (P.L. 109-282), allowing aggregate reporting on awards below \$25,000 or to individuals, as prescribed by the Director of OMB.

Section C – Award Terms

If the Office of Management and Budget does not issue government-wide language for ARRA award terms by the time Commerce will be issuing awards, this office will issue such guidance

If you have any questions concerning the application of this guidance and/or ARRA reporting requirements to OAM, please contact Gary Johnson, 202-482-1679.